

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
BEN & JERRY'S HOMEMADE, INC., et al.,

Plaintiffs,

24-cv-8641 (PKC)

-against-

ORDER

UNILEVER PLC, et ano.,

Defendants.

-----x

CASTEL, U.S.D.J.

Since the commencement of this action four and one-half months ago, Ben & Jerry's Homemade, Inc. ("B&J") has amended its complaint in response to a pre-motion letter by defendants seeking to file a motion to dismiss. (ECF 28.) The Amended Complaint was filed on January 17, 2025. (ECF 32.) Thereafter, defendants filed a second pre-motion letter directed to the Amended Complaint. (ECF 33.) The Court set a briefing schedule on the motion to dismiss and, pursuant to the authority of Rule 16(b)(3)(A), set a deadline on any further motions to amend or join parties expiring at 21 days after the filing of a motion to dismiss. (ECF 36.) The day before the motion to dismiss was due to be filed, B&J filed a motion for leave to amend its complaint (ECF 37). The motion to amend was, therefore, within the time-period set by the Court for further motions to amend (ECF 37.) Defendants proceeded with their motion to dismiss the Amended Complaint the next day. (ECF 39.)

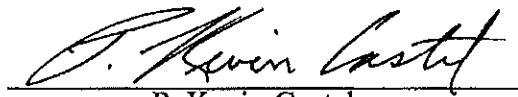
The motion to amend was timely filed. The Court has reviewed the redlined version of the proposed Second Amendment and views the grant of leave to amend to be

appropriate without considerations of futility which may be raised by defendants in a renewed motion to dismiss.

Accordingly, the Court Orders as follows:

1. With the understanding that pursuant to the Order setting a deadline on motions to amend or join parties, this is plaintiffs' last and final amendment to the pleadings, the motion for leave to file a Second Amended Complaint (ECF 37) is GRANTED provided the Second Amended Complaint is filed no later than April 4, 2025.
2. Defendants' motion to dismiss the Amended Complaint (ECF 39) is DENIED AS MOOT without prejudice to the filing of a motion to dismiss the Second Amended Complaint by April 25, 2025.
3. Any response by plaintiffs to the motion to dismiss is due May 2, 2025.
4. Any reply by defendants is due May 16, 2025.
5. The Clerk is respectfully requested to terminate the motions at ECF 37, 39 & 48.

SO ORDERED.



P. Kevin Castel  
United States District Judge

Dated: New York, New York  
March 31, 2025